

# CALFRESH (CF) PROGRAM

## REQUEST FOR POLICY/REGULATION INTERPRETATION

**INSTRUCTIONS:** Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. If additional space is needed, please use the second page. Be sure to identify the additional discussion with the appropriate number and heading. Retain a copy of the CF 24 for your records.

- Questions from counties, including county Quality Control, must be submitted by the county CalFresh Coordinator and may be submitted directly to the CalFresh Policy analyst assigned responsibility for the county, with a copy directed to the appropriate CalFresh Policy unit manager.
- Questions from Administrative Law Judges may be submitted directly to the CalFresh Policy analyst assigned responsibility to the county where the hearing took place, with a copy of the form directed to the appropriate CalFresh Bureau unit manager.

1. RESPONSE NEEDED DUE TO:		5. DATE OF REQUEST:	NEED RESPONSE BY:
<input type="checkbox"/> Policy/Regulation Interpretation <input type="checkbox"/> QC <input checked="" type="checkbox"/> Fair Hearing <input type="checkbox"/> Other:		3/28/2014	asap
2. REQUESTOR NAME:		6. COUNTY/ORGANIZATION:	
De		Kern	
3. PHONE NO.:		7. SUBJECT:	
6/9-521-8023			
4. REGULATION CITE(S):		8. REFERENCES: (Include ACL/ACIN, court cases, etc. in references) NOTE: All requests must have a regulation cite(s) and/or a reference(s).	
		63-102(p)(2); 63-402.224;63-102(f)(4); ACIN I-58-08; Clark v. Astrue (2nd Cir.210) 602 F.3 140	

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

The claimant requested a rehearing to dispute the judge's determination to uphold the denial of his Sept 2013 CalFresh application date on the basis that he was aware of a warrant for his arrest for violation of probation when he applied for benefits. Pertinent undisputed facts are that the claimant moved to Calif from another state where he was on probation following is felony conviction for burglary and various misdemeanor convictions. The warrant was issued in Oct 2006 and is still active. The claimant's attorney argued that while the claimant does not dispute that he was aware of the warrant, the warrant is not extraditable and he cannot afford to travel back to Georgia to appear in court and resolve it. Further, she argued that the fact that when such a warrant is issued does not prove that a person actually violated the terms of the probation, only that there was probably cause to believe that s/he had violated its terms. She cited Clark v. Astrue, a federal appellate court opinion in which the court stated the following: (cont'd below)

10. REQUESTOR'S PROPOSED ANSWER:

"The issue before us is whether the fact of a warrant, issued on the basis of "probable cause" or "reasonable suspicion" to believe that one is violating a condition of probation or parole, is equivalent to a determination that one is in fact violating a condition of probation or parole. We find that it is not and therefore that the Administration's practice is contrary to the plain meaning of the Act."

The court concluded: "We hold that the Social Security Administration's practice of treating a warrant alleging that a recipient is violating a condition of probation or parole as sufficient and irrebuttable evidence that the recipient is in fact violating a condition of probation or parole is inconsistent with the plain meaning of the Social Security Act." (cont'd)

11. STATE POLICY RESPONSE (CFPB USE ONLY):

The court also noted the following in a footnote: We also note that many of the same reasons that the Social Security Administration is not readily equipped to make this determination apply to the benefits recipients and make them, as compared to the Agency, even less qualified to defend their benefits. The warrants that provide the bases for benefits suspensions are often issued decades earlier by far flung jurisdictions. While it may be expensive for the Administration to investigate such warrants, it is frequently impossible for the often-poor benefits recipients to travel to these jurisdictions and, once there, to navigate the legal bureaucracies and have their warrants quashed.

Question: This recent federal court opinion contemplates the same issue raised by the claimant in this case as it pertains to Social Security benefits. Is the Department aware of this recent federal court opinion and/or does the Dept know if FNS is aware of it? What is the Dept's position as to whether this court opinion has any bearing on this case?

### FOR CDSS USE

DATE RECEIVED:	DATE RESPONDED TO COUNTY/ALJ:
March 28, 2014	April 21, 2014 JN

**CALFRESH (CF) PROGRAM  
REQUEST FOR POLICY/REGULATION INTERPRETATION (Continued)**

<b>1. RESPONSE NEEDED DUE TO:</b> <input type="checkbox"/> Policy/Regulation Interpretation <input type="checkbox"/> QC <input type="checkbox"/> Fair Hearing <input type="checkbox"/> Other:	<b>5. DATE OF REQUEST:</b>	<b>NEED RESPONSE BY:</b>
	<b>6. COUNTY/ORGANIZATION:</b>	
	<b>7. SUBJECT:</b>	
<b>2. REQUESTOR NAME:</b>	<b>8. REFERENCES:</b> <i>(Include ACL/ACIN, court cases, etc. in references)</i> <b>NOTE: All requests must have a regulation cite(s) and/or a reference(s).</b>	
<b>3. PHONE NO.:</b>		
<b>4. REGULATION CITE(S):</b>		

April 21, 2014  
Policy Response:

The claimant was aware that he has a warrant, and is not eligible for CalFresh benefits. CalFresh Policy agrees with the judge's determination of denial of the CalFresh application.